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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,258	09/03/2002	Herbert Roeckel	10191/2334	2934
26646	7590	03/19/2004	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			PATEL, HARSHAD R	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 03/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/089,258

Applicant(s)

ROECKEL ET AL.

Examiner

Harshad Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-51 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 26-39 and 42-51 is/are rejected.
- 7) ☒ Claim(s) 40 and 41 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3/26/02 . 6) ☐ Other:

Specification

1. The disclosure is objected to because of the following informalities: The applicant uses the language at pages 1 and 4 that refer to claim numbers. Applicants are advised not to use such claim numbers in the specification since they often change during the history of prosecution.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 32 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 32, it is unclear as to the phrase “the sensor carrier one of formed and aligned and negative angle”.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 26-31, 33-36, 38, 39 and 51 are rejected under 35 U.S.C. 102(b) as being anticipate by Rilling et al. (5,693,879) (hereinafter Rilling).

Rilling teaches a device for determining at least one parameter of a medium comprising a sensor carrier (27) at least one sensor element (25) arranged on the sensor carrier, wherein the sensor carrier is a separate component secured to the device wall (4). A support part (36) and a

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measuring housing including a bypass channel (20), the sensor element arranged in the bypass channel, the sensor carrier including an aerodynamically formed oncoming flow edge (Fig. 4).

Rilling shows all the elements as claimed to support and arrange the sensor element in the bypass channel and other structural arrangements for forming the frame element and retaining element for the sensor element including the sensor cavity. As to the adhesive displacement space, Rilling teaches a section (65) where any excess adhesive applied can collect in the bottom face (col. 5, lines 7-28).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 32, 37, and 42-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rilling in view of Yonezawa et al. (6,253,606) (hereinafter Yonezawa).

Rilling shows all the features of the instant invention except for the inclined sensor carrier.

Yonezawa teaches an inclined sensor carrier. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide an inclined carrier since such modification provides protection of the sensing element from dirt particles within the flow.

Rilling teaches the device having parts made from plastic and carrier formed of a substrate but is not specific as to the carrier itself being made from plastic or ceramic. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use plastic or ceramic as a carrier element since it is very well known in the flow measuring art where such material is used in order to provide a cost effective device and also capable of withstanding the heat.

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Allowable Subject Matter

8. Claims 40 and 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: Prior arts made available do not teach or fairly suggest, alone or in combination, a cut-out in the longitudinal edge of the sensor cavity wherein the longitudinal edges one of arranged parallel and slightly inclined with respect to the oncoming flow edge of the carrier.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harshad Patel whose telephone number is (571) 272-2187. The examiner can normally be reached on Monday-Thursday (7:00 AM-5:30 PM).



Harshad Patel
Primary Examiner
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hp
March 8, 2004